

# BOARD OF ZONING APPEALS

## MINUTES

6:30 PM

September 21, 2016

City Council Chambers

**MEMBERS PRESENT:** Bill Burton, Jim Shaffer, and George Papandreas

**MEMBERS ABSENT:** Colin Wattleworth and Linda Herbst

**STAFF:** John Whitmore, AICP

**I. CALL TO ORDER AND ROLL CALL:** Burton called the meeting to order at 6:30 p.m. and read the standard explanation of the how the Board conducts business and rules for public comments.

**II. MATTERS OF BUSINESS:**

**A.** Minutes for the August 17, 2016 hearing: Papandreas moved to approve as presented; seconded by Shaffer. Motion carried unanimously with Papandreas abstaining due to his absence.

**III. UNFINISHED BUSINESS:** None.

**IV. NEW BUSINESS:**

**A. CU16-05 / Mario's Fishbowl / 704 Richwood Avenue:** Request by Mark Furfari, on behalf of Mario's Fishbowl, for conditional use approval of a "Restaurant, Private Club" use; Tax Map 30, Parcels 30 and 31; B-1, Neighborhood Business District.

Whitmore presented the Staff Report.

Burton recognized Mark Furfari of 704 Richwood Avenue who explained that beer is being served on their patio which holds a separate liquor license. Furfari stated food sales total over 60 percent and distributed menus to the Board members. Furfari noted that Mario's Fishbowl is a Morgantown landmark and a neighborhood establishment that needs to be protected. Furfari stated the restaurant will not serve hard liquor and wants to keep the character of the establishment.

Papandreas asked if the outside seating area will convey over to Mario's Fishbowl. Furfari confirmed and explained an alcoholic beverage could not be carried from Crosley's to the Mario's Fishbowl deck and that Crosley's has their own deck.

Burton asked if anyone was present to speak in favor of or in opposition to the petitions. There being no further comments, Burton declared the public portion closed.

Burton asked for Staff recommendations, which were read by Whitmore.

Papandreas made a motion to affirm that Mario's Fishbowl is a bonafide restaurant; seconded by Shaffer. Motion carried unanimously.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for CU16-05 as revised by Staff; seconded by Papandreas. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to alter existing on- or off-street parking demand or vehicular trips generated by the Mario's Fishbowl restaurant establishment.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to alter the character of the landmark establishment described by the petitioner.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

No physical changes to the Mario's Fishbowl building are proposed for the sale of liquor that would alter existing sunlight distribution or air flow patterns.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

No physical changes to the Mario's Fishbowl building is proposed for the sale of liquor that would increase the gross floor area of the restaurant establishment or lot coverage or height of the building.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

No residential component is included in the proposed conditional "Restaurant, Private Club" use.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to increase the demand for public goods, services, or utilities above that already serving the existing Mario's Fishbowl restaurant establishment and surrounding area.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to alter the value of the subject building or surrounding B-1 District buildings.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The proposed sale of liquor in addition to beer and wine is not anticipated to alter the existing neighborhood bar and grill landmark of Mario's Fishbowl.

Papandreas moved to approve CU16-05 as requested with conditions; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following conditions was included in the motion:*

1. *That the petitioner must maintain compliance with all supplemental regulations set forth in Section 1331.06(27) of the Planning and Zoning Code.*

2. *That the petitioner must maintain permitting from the Monongalia County Health Department as a "restaurant" under the Monongalia County Clean Indoor Air Regulations.*
3. *That, to sustain the establishment's obligation to remain a bona fide restaurant, Mario's Fishbowl must be open no later than 11:00 AM Monday through Friday for the purpose of serving lunch.*
4. *That Mario's Fishbowl maintain a seating capacity for at least 50 persons and that, with the exception of the existing elongated countertop seating, seats at a bar may not be counted as meeting the minimum seating capacity.*
5. *That the petitioner shall voluntarily submit all necessary financial information to the City for the subject establishment following its first twelve (12) months of operation as a "Restaurant, Private Club" use to ensure compliance with Article 1331.06 (27) (e) provisions, which requires the sale of food and non-alcoholic beverages to comprise a minimum of 60 percent of total gross sales of all food and drink items in each calendar month.*
6. *That the beneficiary of this conditional use approval is specific to Landmark Ventures, LLC (DBA Mario's Fishbowl). Said beneficiary may not be transferred without prior approval of the Board of Zoning Appeals.*

Burton reminded Mr. Furfari that the Board's decision can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

**B. CU16-06 / Quantum Bean Coffee, LLC / 258 Kingwood Street:** Request by Samuel L. Bonasso, on behalf of Quantum Bean, LLC, for conditional use approval of a "Neighborhood Convenience Store" use; Tax Map 29, Parcel 447; R-1A, Single-Family Residential.

Whitmore presented the Staff Report.

Burton recognized Samuel Bonasso of 227 Greenbrier Street who stated he was a frequent customer of the previous establishment, South Perk Market, and worked with them to supply coffee. Bonasso explained that after the closing of South Perk Market, he has been working with the landlord to open a similar establishment to include a coffee bar. Bonasso expressed they would like to keep the historical building serving residents of South Park and prevent it from turning in to an apartment

Burton asked if Bonasso owns or leased the building. Bonasso stated he would be purchasing the building contingent on BZA approval and would have an upstairs apartment that would be leased.

Shaffer asked for types of retail items. Bonasso explained he is there to serve the public and residents of South Park and would focus on local items made in West Virginia to help stimulate the economy.

Burton asked for type of signage proposed. Bonasso explained the window will be used for signage in order to maintain the appearance of the building.

There being no further comments, Burton asked if anyone was present to speak in favor of or in opposition to the petitions. There being none, Burton declared the public portion closed.

Burton asked for Staff recommendations, which were read by Whitmore.

Papandreas asked if 9 p.m. is an acceptable closing time for the applicant. Bonasso confirmed and stated they plan to close by 5 p.m. daily but could adjust hours as needed.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for CU16-06 as revised by Staff; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

The majority of traffic will be foot traffic. In order to assist with vehicular traffic there are four existing off street parking spaces.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

There are front and back entrances from the proposed store in case of accidents. The provided parking allows for clear access on the street and access for emergency vehicles.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

The business is not changing any buildings to affect surrounding properties. The business generally is very similar to South Perk Market. (The prior business)

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

The business is not making any structural changes to the building or land, therefore no change to existing land use.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

There is sufficient parking and walking space away from the street so as not to affect pedestrian or traffic flow.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

There is currently existing parking to sufficiently handle anticipated traffic. The business use of the property will not affect any existing city infrastructure.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The business is improving the interior of the existing commercial space and the facility will be returned to its historic use.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The national registry of historic places lists the original use of this space as a grocery store. The use as a local convenience store, is the most appropriate use of the property to fit into the South Park Historic District.

Papandreas moved to approve CU16-06 as requested with conditions; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following conditions was included in the motion:*

1. That to ensure the approved conditional “Neighborhood Convenience Store” use does not detract from the residential character of the neighborhood:
  - a. A limited line of groceries and household items intended for the convenience of the neighborhood must be offered as the establishment’s foremost enterprise; and,
  - b. The subject establishment may not be open later than 9:00 PM; and,
  - c. The petitioner must provide, to the satisfaction of the City Engineer, and properly maintain an appropriate public trash receptacle, the area around which the petitioner shall be responsible for keeping free from litter.
2. That the entire window frame on the ground floor facing Kingwood Street must be filled with window glazing to reestablish the building’s commercial storefront; provided, such glazing may not be comprised of a glass block window unit(s).
3. That all regulated signage for the subject establishment must comply with related standards set forth in Article 1369 “Signs”.
4. That the beneficiary of the conditional use approval granted herein shall be specific to the Quantum Bean Coffee, LLC and may not be transferred without the prior approval of the Board of Zoning Appeals.

Burton reminded Mr. Bonasso that the Board’s decision can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board’s decisions during this period would be at the sole financial risk of the petitioner.

**C. CU16-08 / America’s Choice / 1385 Greenbag Road:** Request by Chris Lewullen of America’s Choice, for conditional use approval of “Automotive Sales” use; Tax Map 31, Parcel 101.9; B-2, Service Business District.

Whitmore presented the Staff Report.

Burton recognized Chris Lewullen of 87 Saylor Road who stated he currently owns Plum Crazy Motor Sports in Westover and recognizes the need for affordable vehicles in Morgantown. Lewullen stated the new location will bring his three businesses together in a commercial location that already has four surrounding car lots in that area.

Shaffer asked for a description of the three businesses. Lewullen stated the location would be used for car sales, auto mechanic shop and tire store, as well as the pro-liner bedliners for truck beds.

There being no further comments, Burton asked if anyone was present to speak in favor of or in opposition to the petitions. There being none, Burton declared the public portion closed.

Burton asked for Staff recommendations, which were read by Whitmore.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for CU16-08 as revised by Staff; seconded by Papandreas. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

Vehicles sales and automotive repair services are often aligned and are not anticipated to significantly increase trip generation to the subject site.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

The sale of vehicles at the subject site is not anticipated to result in deleterious conditions.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

The sale of vehicles at the subject site will not result in additions or modifications to the subject principal and/or accessory structures that would change existing sunlight distribution and air flow conditions within the immediate built environment.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

The sale of vehicles at the subject site will not result in additions or modifications to the subject principal and/or accessory structures.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

A residential component is not proposed with the “Automotive Sales” use.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The sale of vehicles at the subject site is not anticipated to increase the demand for public goods, services, or utilities above that already serving the site and surrounding built environment.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The sale of vehicles at the subject site is not anticipated to adversely affect the value surrounding buildings.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

Vehicles sales and automotive repair services are often aligned and several similar establishments are located within the Sabraton area.

Shaffer moved to approve CU16-08 as requested with the condition that the beneficiary of the approval is specific to the petitioner’s related business organization and may not be transferred without prior approval of the Board; seconded by Papandreas. Motion carried unanimously.

Burton reminded Mr. Lewullen that the Board’s decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board’s decisions during this period would be at the sole financial risk of the petitioner.

**D. CU16-09 / Mylan Pharmaceuticals / 781 Chestnut Ridge Road:** Request by John Sausen of Omni Associates, on behalf of Mylan Pharmaceuticals, for conditional use approval of “Light Industry” use; Tax Map 56, Parcel 4.1; B-2, Service Business District.

Whitmore presented the combined Staff Report for CU16-09 and V16-32.

Burton recognized John Sausen of Omni Associates and architect for the building, who explained that a lack of due diligence let to the building already being used as a “Light Industry” use and a plat being approved for the minor subdivision. Sausen explained that both the building and

parking lot are leased to Mylan Pharmaceuticals and utilized by their employees. Sausen noted he brought the errors to the owner's attention and stressed that approvals must be maintained in order to proceed.

There being no comments, Burton asked if anyone was present to speak in favor of or in opposition to the petitions. There being none, Burton declared the public portion closed.

Burton asked for Staff recommendations for CU16-09, which were read by Whitmore.

Papandreas asked why the condition related to offsite parking facilities was placed on both the variance and the conditional use. Whitmore explained that both petitions relate to the site's parking and Staff is making the recommendation for the conditional use permit, as the use requires a certain amount of parking, necessitating the variance petition.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for CU16-09 as revised by Staff; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

The site is located on the Suburban Lanes commercial area and the subject building has been in use by Mylan since 1989 according to the petitioner. The occupancy is not changing and the street access is from Hay Lane which is not changing. There is not an increase in occupancy rate of the building and an increase the vehicular trip generation is not anticipated.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

According to the petitioner, the safety of the building will be improved with the introduction of the new fire exit stairs internal to the building, the building will be fully sprinklered and a complete fire alarm system will be expanded for the renovation.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

The majority of the building is existing and the third floor partial addition is limited to the north side of the building which also sets back 21' from the property line.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

The building footprint will remain essentially the same with the loading dock being extended for better access to the interior of the building. The Hay Lane side and the north side entrances have landscaping beds to the face of the building to provide a buffer to the street across.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

The occupancy of the building will be employees of Mylan that are currently working across the street in the main plant and will be relocated into this renovation for quality control testing. The projected occupancy total is 35 persons. A residential component is not included in the building currently nor in the proposed renovations.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The building is already in use for Mylan and the proposed use is simply another function of the manufacturing process. The building already has utility connections that are to remain, the building "hardscape" for storm water drainage will remain the same.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The existing building was constructed in 1989 and the current renovation will improve its appearance with new insulated metal panels, windows and entrances. The energy efficiency of the HVAC systems

is much improved from original equipment, according to the petitioner. The demolition and waste of the building will be minimal thus rehabilitating a building that is not currently up to building code standards for light, air, energy and accessibility.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The building is continuing its Light Industry use as it has for many decades with the improvement of the building components as noted above.

Papandreas moved to approve CU16-09 as requested with conditions; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following condition was included in the motion:*

- 1. That the use of the subject building may not liken to a "Heavy Industry" use engaged in the basic processing and manufacturing of materials, or a use engaged in storage of or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.*
- 2. That offsite parking facilities for at least 40 parking stalls shall be encumbered by a duly executed and acknowledged agreement by and between Mylan Pharmaceuticals and the owner of Parcel 4.1 of Tax Map 26 specifying and binding the time period to the anticipated use of the subject building by Mylan Pharmaceuticals. Said agreement shall be placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia and a certified recorded copy of said agreement filed with the Development Services Department.*
- 3. That conditional "Light Industry" use approval granted herein is specific to Mylan Pharmaceuticals and may not be transferred without prior approval by the Board of Zoning Appeals.*

**E. V16-32 / Mylan Pharmaceuticals / 781 Chestnut Ridge Road:** Request by John Sausen of Omni Associates, on behalf of Mylan Pharmaceuticals, for variance relief from Article 1365 concerning minimum parking requirements; Tax Map 56, Parcel 4.1; B-2, Service Business District.

Burton asked for Staff recommendations for V16-32, which were read by Whitmore.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for V16-32 as revised by Staff; seconded by Papandreas. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The existing site has been in constant use since 1989 by Mylan Pharmaceutical whom leases the building and site from Suburban Lanes, Inc. for Light Industry occupancy. The site is restricted on the edge of the City of Morgantown corporate limits and all adjacent properties within the City limits are also owned by the same property owner. The parking requirements will be provided on adjacent property owned by Mylan outside of the corporate limits of Morgantown, as it has for several years without appreciable impact to the surrounding built environment or uses. The proposed use of Light Industry will remain the same, therefore no public safety issues will be revised and as noted the Suburban Lanes, Inc. owns all other adjacent parcels and is in agreement with the proposed 3<sup>rd</sup> floor addition and interior renovation of the building.



Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The building on the site has existed since 1989. Due to the narrow and shallow features of this interior lot there is not enough area around the building to provide the required minimum parking for the B-2 permitted Conditional Use of Light Industry. The variance relief allows for minimum parking requirements to be met on adjacent property owned by Mylan, as has been provided for several years, while not taking parking from adjacent lots which are needed for their respective uses.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Mylan Pharmaceutical and Suburban Lanes, Inc. will enter into a parking agreement wherein the employees of Mylan shall utilize dedicated parking on an adjacent property owned by Mylan north of the site on Hay Lane to satisfy the required parking for Mylan's use of the subject building. The agreement is included with the petition along with a site plan indicating that the parking lot is within 500' of this building and within the secure boundary of Mylan. As the building is on edge of the City boundary, the proposed parking is outside of the City limits, but is dedicated for the use of this property for the term of the property lease between Mylan Pharmaceutical and Suburban Lanes, Inc.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The Planning and Zoning Code, Section 1365.04 would require 40 spaces (35 employees + 5 visitors) that are not available within the City limits but will be encumbered and dedicated for the use of the subject property that is within the City limits and will not encourage improper parking on adjacent properties.

Papandreas moved to approve V16-32 as requested with conditions; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following condition was included in the motion:*

- 1. That conditional "Light Industry" use must be granted under Case No. CU16-09 and conditions set forth therein observed.*
- 2. That offsite parking facilities for at least 40 parking stalls shall be encumbered by a duly executed and acknowledged agreement by and between Mylan Pharmaceuticals and the owner of Parcel 4.1 of Tax Map 26 specifying and binding the time period to the anticipated use of the subject building by Mylan Pharmaceuticals. Said agreement shall be placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia and a certified recorded copy of said agreement filed with the Development Services Department.*
- 3. That said agreement shall be modified to accommodate additional parking stalls should the number of Mylan employees located within the subject building increase beyond the 35 employees anticipated by the petitioner.*
- 4. That variance relief granted herein is specific to Mylan Pharmaceuticals under the circumstances presented by the petitioner and may not be transferred.*

Burton reminded Mr. Sausen that the Board's decisions can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

- F. V16-29 / Salam, LLC / 350 High Street:** Request by Mohammed Alkhaldi of Salam, LLC, for variance relief from Article 1369 concerning signage; Tax Map 26A, Parcel 110; B-4 General Business District.

Whitmore presented the Staff Report.

Papandreas noted that he owns property within two hundred feet of 350 High Street and asked the petitioner if he would like for him to recuse himself from voting for the petition. Alkhaldi stated he did not want Papandreas to recuse himself.

Burton recognized Mohammed Alkhaldi of 350 High Street and explained they chose the materials for the sign as they are on a budget and it was affordable.

Burton asked if Alkhaldi is leasing the property. Alkhaldi confirmed. Burton asked if the previous owner of the restaurant is still in town. Alkhaldi confirmed.

Papandreas noted the sign proposed is smaller than the previous sign that was never approved and stated he had no problem with the sign as proposed.

There being no further comments, Burton asked if anyone was present to speak in favor of or in opposition to the petitions. There being none, Burton declared the public portion closed.

Burton asked for Staff recommendations for V16-29, which were read by Whitmore.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-29 as revised by Staff; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The sign is not obtrusive or too large, and fits the ascetic for the structure.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The proposed sign will allow people to see the restaurant use.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The use requires adequate signage area made from material that works with the structure and surrounding properties.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The proposed sign is suitable design for the downtown area.

Papandreas moved to approve V16-29 as requested without conditions; seconded by Shaffer. Motion carried unanimously.

Burton reminded Mr. Alkhaldi that the Board's decision can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

**G. V16-30 / Santos / 2037 Eugeniva Avenue:** Request by Anthony and Crystal Santos for variance relief from Article 1335.04 concerning a front setback; Tax Map 44, Parcel 149; R-1A, Single-Family Residential District.

Whitmore presented the Staff Report.

Burton recognized James Stottlemeyer of 186 Bluegrass Village who stated he is building the house on behalf of his daughter and explained they would like to place the house farther back by four feet due to a steep incline.

Papandreas noted the aerial photography shows Long Avenue instead of Eugeniva Avenue. Whitmore explained that Eugeniva Avenue does not show up in Google maps.

There being no further comments or questions by the Board, Burton asked if anyone was present to speak in favor of or in opposition to the petitions. There being none, Burton declared the public portion closed and asked for Staff recommendations.

Whitmore presented the Staff recommendations.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V16-30 as revised by Staff; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Findings of Fact were included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

On this parcel of private property, the location of our new home does not impact the overall visual of the neighborhood.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

By setting our new home an extra 4' beyond the maximum building line. We will be able to enjoy a larger front yard and lessen the grade of our driveway.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Our piece of land is small, by allowing us to set our home and extra 4' back, it would help create a larger and flatter front yard. This would help make yard maintenance easier to maintain and help to keep future children away from the street when they are outside. It would also help the grade of the driveway by making it less steep and creating an easier access up and down our driveway in the winter months.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

It would help make our home more enjoyable to live in by creating a front yard that can be made better use of and a driveway that is more convenient to use. Moving the home an extra 4' back will condense the bank in the front yard and driveway. This will give the home a nicer outside looks and a better living environment.

Papandreas moved to approve V16-30 as requested without conditions; seconded by Shaffer. Motion carried unanimously.

Burton reminded Mr. Stottlemeyer that the Board's decision can be appealed to Monongalia County Circuit Court within thirty (30) days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

**V. ANNOUNCEMENTS:**

**VI. ADJOURNMENT: 8:05 PM**

MINUTES APPROVED:

November 16, 2016

BOARD SECRETARY:

  
Christopher M. Fletcher, AICP